

Pension Benefit Guaranty Corporation

§ 4043.35

(iv) *80-percent funded.* As of the testing date for the event year, the fair market value of the plan's assets is at least 80 percent of the plan's vested benefits amount.

(d) *Notice date and extensions*—(1) *In general.* Except as provided in paragraph (d)(2) or (d)(3) of this section, the notice date is 30 days after the person required to report knows or has reason to know of the occurrence of the default, without regard to the time of any other conditions required for the default to be reportable.

(2) *Cure period extensions.* The notice date is extended to one day after—

(i) The applicable cure period provided in the loan agreement (in the case of a reportable event described in paragraph (a)(1) of this section);

(ii) The date the loan is accelerated (in the case of a reportable event described in paragraph (a)(2) of this section); or

(iii) The date the debtor receives written notice of the default (in the case of a reportable event described in paragraph (a)(3) of this section).

(3) *Form 1 extension.* The notice date is extended to 30 days after the plan's variable rate premium filing due date for the event year, if a waiver under any of paragraphs (c)(3)(i) through (c)(3)(iv) of this section would apply if the "the plan year preceding the event year" were substituted for "the event year."

(4) *Foreign parent and foreign-linked entities.* With respect to a loan default involving only a foreign parent or a foreign-linked entity, the notice date is extended to 30 days after the plan's first Form 5500 due date after the person required to notify the PBGC has actual knowledge of the default and of the controlled group relationship.

(5) *Example.* Company A has a debt with an outstanding balance of \$20 million, for which a payment is due on October 1. Under the terms of the loan, the default may be cured within 10 days. Company A does not make the payment until October 31. Because Company A has made the payment within 30 days of the due date, no reportable event has occurred. If Company A does not make the payment by October 31, a reportable event will have

occurred on October 1, and notice will be due by October 31.

§ 4043.35 Bankruptcy or similar settlement.

(a) *Reportable event.* A reportable event occurs for a plan when any member of the plan's controlled group—

(1) Commences a bankruptcy case (under the Bankruptcy Code), or has a bankruptcy case commenced against it;

(2) Commences or has commenced against it any other type of insolvency proceeding (including, but not limited to, the appointment of a receiver);

(3) Commences, or has commenced against it, a proceeding to effect a composition, extension, or settlement with creditors;

(4) Executes a general assignment for the benefit of creditors; or

(5) Undertakes to effect any other nonjudicial composition, extension, or settlement with substantially all its creditors.

(b) *Initial information required.* In addition to the information in § 4043.3(b), the notice shall include—

(1) A copy of all papers filed in the relevant proceeding, including, but not limited to, petitions and supporting schedules;

(2) The last date for filing claims;

(3) The name, address, and phone number of any trustee or receiver (or similar person);

(4) The name of each member of the plan's controlled group and its ownership relationship to other members of that controlled group; and

(5) For each other plan maintained by any member of the plan's controlled group, identification of the plan and its contributing sponsor(s) by name and EIN/PN or EIN, as appropriate.

(c) *Waivers.* Notice is waived if the person described in paragraph (a) of this section is a foreign entity other than a foreign parent.

(d) *Extensions.* Unless the controlled group member described in paragraph (a) of this section is the contributing sponsor of the plan, the notice date is extended until 30 days after the person required to notify the PBGC has actual knowledge of the reportable event.